

## **REMARKS**

### ***Pending Claims***

Claims 1-16 are currently pending. Claims 1, 6, 10, and 16 have been amended. No new matter is added.

### ***Request for Reconsideration***

Applicant gratefully acknowledges the Examiner's consideration of the Request for Reconsideration filed on September 25, 2008, and subsequent withdrawal of the finality of the previous Office action.

### ***Rejections under 35 U.S.C. § 103***

The Examiner has rejected claims 1, 3-6, 8-11, and 13-16 under 35 U.S.C. § 103(a) as being obvious over Rudrapatna (US Appl. Publ. No. 2004/0092233) in view of Chen (USP 7,443,816). However, at least for the reasons presented herein, Applicants respectfully submit that the rejections are traversed. In responding to the rejections, Applicants make no concession that any of the cited references are prior art, and Applicants reserve the right to antedate any reference at a later date and to present additional reasons why the claims are patentable.

Independent claims 1, 6, 10, and 16 have been amended to recite that transmission power is determined in accordance with “a predicted error correction gain difference depending on the determined transmission rate.” Figures 4 and 5 of the specification show graphs of “simulation results” of the relationship between BER (bit error rates) or FER (frame error rates) and Eb/No (ratio of energy per bit to noise power spectral density), respectively. Graphs such as these are then used to determine predicted error correction gain difference values such as those shown in the tables in Figures 7 and 8. These error correction gain values are then used to change transmission power. In other embodiments, the error correction gain values and changes in amount of transmission power may also be obtained by calculation.

Rudrapatna, on the other hand, determines power adjustment based on the signal to interference ratio (SIR) or other properties of the signal. Rudrapatna's system includes a SIR measurer 56 which measures the SIR present in the received signal and compares it to a target SIR value generated by a quality measurer 54 to determine whether to increase transmission

power. Rudrapatna at ¶0025. Thus, the system of Rudrapatna determines changes to transmission power levels interactively based on live measurements of signal properties.

Chen does not supply the deficiencies of Rudrapatna. Chen does not teach or suggest changing a transmission power of the transmission data in accordance with error correction gain difference, whether predicted or measured. Thus, the combination of Rudrapatna and Chen does not render the claims obvious.

Regarding claims 4 and 14, Chen does not teach or suggest estimating transmission rate from a power distribution of a received signal from the base station. The citation provided by the Examiner to col. 59, lines 49-60, to support this point is not present in the Chen reference, which only has 20 columns. In any event, Applicant could not find any teachings in Chen regarding estimating transmission rate from a power distribution of a received signal from the base station. Thus, Chen does not supply the deficiencies of Rudrapatna in this regard, and claims 4 and 14 are not obvious over the combination of Rudrapatna in view of Chen.

Regarding claim 11, Chen does not teach the step of determining the transmission power carried out with reference to one or more tables prepared in advance that show the relations among the transmission data size, the error correction gain difference, and a change amount of the transmission power. Figure 4 of Chen shows a relationship between packet size and transmission rate, but does not provide any information about the relationship of the transmission data size to the error correction gain difference and a change in amount of the transmission power. Thus, Chen does not supply the deficiencies of Rudrapatna in this regard, and claim 11 is not obvious over the combination of Rudrapatna in view of Chen.

The Examiner has also rejected claims 2, 7, and 12 under 35 U.S.C. § 103(a) as being obvious over Rudrapatna in view of Tsien (USP 7,328,037). However, at least for the reasons presented herein, Applicants respectfully submit that the rejections are traversed. In responding to the rejections, Applicants make no concession that any of the cited references are prior art, and Applicants reserve the right to antedate any reference at a later date and to present additional reasons why the claims are patentable.

Claims 2, 7, and 12 are allowable at least because each depends from one of allowable independent claims 1, 6, and 10, respectively. The combination of Rudrapatna in view of Tsien does not teach or suggest all of the elements of claims 2, 7, or 12, as Tsien fails to supply the deficiencies of Rudrapatna identified with respect to independent claims 1, 6, and 10. Among other distinctions, Tsien does teach changing a transmission power of the transmission data in accordance with a predicted error correction gain difference. Instead, Tsien teaches setting transmission power “interactively” based on measurements of signals between the access point AP 110 and the mobile unit 120. Tsien at col. 5, lines 27-38. Thus, Tsien does not supply the deficiencies of Rudrapatna in this regard, and claims 2, 7, and 12 are not obvious over the combination of Rudrapatna in view of Tsien.

Each of the remaining claims depends from an allowable claim and should be allowed for the same reasons that the respective parent claim is allowable, and also because each recites additional patentable subject matter.

### **CONCLUSION**

In view of the remarks and amendments presented herein, reconsideration and withdrawal of the pending rejections and allowance of the claims are respectfully requested. The Examiner is strongly encouraged to contact the undersigned at the phone number below should any issues remain with respect to the application.

No other fees are believed due in connection with this submission. However, if additional fees are owed, please charge Deposit Account 50-1965.

Respectfully submitted,  
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